

REMARKS

Claims 9-14, 23 and 24 have been amended as suggested by the Examiner in cipher 3 of the Action. And, independent claims 1, 8, 15, 27 and 28 all have been amended to better define the claimed invention and to better distinguish the claimed invention from the applied art. More particularly, each of independent claims 1, 8, 15, 27 and 28 have been amended to add the feature:

wherein said compensated mask pattern of said mask layer is generated by changing a condition of the proximity-effect compensation when a difference between said mask design pattern to be tested and said resist pattern is out of the test standard, wherein a process is ended when the difference between said mask design pattern to be tested and said resist pattern is within the test standard.

It is submitted that none of the applied art, alone or in combination teaches Applicant's claims, as amended.

Turning to the several art rejections, the Examiner takes the position that Taoka meets the feature of teaching quantity of sampling on the edge of the first pattern in the first area is different than the quantity of sampling points on the edge of the first pattern in the second area on the basis that the claim limitation only calls for a difference in the number of sampling points between at least two areas on a single pattern. While Applicant does not agree, in order to expedite prosecution, Applicant has amended the several independent claims to add the feature "wherein said compensated mask pattern of said mask layer is generated by changing a condition of the proximity-effect compensation when a difference between said mask design pattern to be tested and said resist pattern is out of the test standard, wherein a process is ended when the difference between said mask design pattern to be tested and said resist pattern is

within the test standard". It is submitted that neither Tounai nor Taoka alone or in combination, or combined with any of the other secondary references, Tsudaka or Miyazaki, could be said to achieve or render obvious any of independent claims 1, 8, 15, 27 or 28, or the several claims which depend directly or indirectly thereon.

The foregoing Amendment makes no claim changes that would require further search by the Examiner, but rather merely clarifies the claims and/or address claim objections in the manner suggested by the Examiner. Accordingly, entry of the foregoing Amendment, and allowance of the application are respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

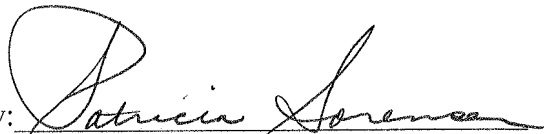
Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Patent Office via the electronic filing procedure on December 27, 2010.

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